

PLANNING BOARD MINUTES

SPECIAL MEETING

May 7, 2008

Board members present:

Art Weber, Chairman Ron Wolanski, Town Planner

Jan Eckhart, Vice Chairman

Audrey Rearick , Secretary

Richard Adams

Frank Forgue

Betty Jane Owen

Gladys Lavine

The meeting was called to order at 6:00 pm.

1. Discuss request of the Town Council for an advisory recommendation on a proposal to amend the Middletown Zoning Ordinance Section 603 regarding dimensional regulations in the Office Park (OP) zoning district.

Mr. Wolanski provided the Board and others with copies of a memo from the Town Solicitor, dated May 6, 2008, and letters received from interested individuals.

Mr. Weber introduced the discussion. He invited discussion from those in attendance.

Attorney Greg Fater, representing residents of the Ocean View Drive,

indicated that his clients have concerns over the potential adverse impacts of potential development in the abutting Aquidneck Corporate Park. Concerns include noise, lighting, and building height. He provided a packet of information, include the original restrictions of the corporate park. He indicated that prior to the implementation of the OP district in 2000 the Town Council regulated development within the park. Buildings were limited to a height of 30 feet.

Mr. Weber asked when the park was developed and when the residential subdivision was developed.

Mr. Fater stated that the park was developed in the late 1970's and the Ocean View residential subdivision was approved in the 1980's, though the land was zoned for residential development prior to that time.

Mr. Weber asked if there had been disclosure to the buyers of Ocean View Dr. property of the development potential in the corporate park.

Mr. Fater discussed the 2000 action to zone the park OP. He stated that abutters were not notified of the zoning amendment, though notice in the Newport Daily News was provided. I believes that the abutters should have been notified.

Mr. Weber asked if anyone knew the reason for the 2000 zoning amendment.

Attorney David Martland, representing Mr. Goldstein, a park property owner who's property abuts the Ocean View nieghborhood, stated that it was discovered at that time that the regulations in place would not permit a school that wished to locate in the park. The Planning Board at the time proposed a zoning ordinance amendment that

designated the area as the Office Park (OP) district, and allowed for less-intensive uses, while restricting some manufacturing uses. Dimensional standards for the new district were also adopted at that time.

There was discussion of the lot coverage requirements. Mr. Wolanski stated that an increase in lot coverage from 25% to 35% was recently approved as a result of recommendations from a business build-out study commissioned by the Town.

Mr. Fater discussed the town's existing standards that regulate industrial development. He also indicated that an increase in the lot coverage limits could offset reduced building heights. Such a change could reduce development costs.

Mike Russell, PE, of LDEC, a Portsmouth engineering firm, was introduced by Mr. Fater.

Mr. Russell provided illustrations depicting various building height scenarios for the board's consideration. He stated that increased building height might increase the impact of noise and lighting on the abutting neighborhood. He stated that he is providing the information for discussion purposes only. An analysis of actual impacts has not been completed.

Mr. Martland questioned some of Mr. Russell's assumptions.

Mr. Russell reiterated that the materials were provided for discussion purposes only.

Mark Puleo, a resident of Ocean View Drive, stated that he believes that the original regulations for the corporate park indicate the town's desire to limit impacts. The recent subdivision of Mr. Goldstein's land

results in a further impact on the residential neighborhood. He raised concern over the impact of exterior lighting in the park. Existing lighting is impacting the neighborhood.

David Dittman, a resident of Ocean View Drive, stated that the potential impact on views are not his personal concern. He is concerned about impacts on the entire neighborhood. He stated that exterior lighting in the park is a primary concern.

Mr. Weber stated that the issue of lighting can be addressed through discussion with the property owners and the building official.

Mr. Wolanski confirmed that current regulations require the screening of exterior lighting.

Mr. Martland stated that during recent conversations between his client and the Ocean View residents, the issue of lighting was not raised.

Chris Synnott, a resident of Ocean View Drive, stated that he is a construction contractor. He is aware that there are options for screening of noise and lighting. Providing noise screening could result in a greater impact for residents further up the hill.

Annmarie Hogan, a resident of Ocean View Drive, stated that lower profile buildings are more appropriate to the location, and taller buildings would not fit the area.

Attorney Vince Igelia, representing McDougal Enterprises and LAS, LLC, stated that his clients purchased property in the park with the understanding and expectation that air-rights were also purchased that would provide for future development. The reduction in development potential may require compensation. He questioned the

legal ability of the town to protect views, and indicated that the proposal may constitute illegal spot-zoning.

Mr. Martland stated that he represents Mr. Goldstein as well as other property owners in the Aquidneck Corporate Park. Regarding the potential of additional development on the Goldstein property, Mr. Martland stated that the recent subdivisions was not necessary to allow for an additional building on the site. There is currently no plan for a building on the subject lot.

Regarding the 2000 zoning amendment, Mr. Martland stated that prior to the adoption of the current 40-foot height limit there was no building height limit in the park. The original park regulations stated that the Town Council must consider requests for building heights greater than 30 ft. The 2000 amendment resulted in down-zoning of the allowed uses in the park.

Mr. Martland questioned the purpose of the proposed amendment. He stated that such regulations must be shown to have a public purpose. He stated that there is no apparent public purpose achieved by the proposal. He stated that the Town allows buildings up to 40-feet in other districts. The town currently has design standards and other regulations to protect abutting properties.

Mr. Martland stated that town studies, including a corporate space buildout study, recommends maximizing the development potential in the corporate park. The town is currently seeking funding to improve the park to attract more businesses. New restrictions on building would have a chilling effect on expansion in the park. The park is transitioning into more of an office park. Larger building footprint is

not necessarily preferred for an office building.

There was discussion of the Child & Family building currently under construction. Due to design considerations that building, which is 2-stories, will be 40 feet tall.

Mr. Martland stated that he disagrees with the Town Solicitor's opinion, which states that the Town may regulate building height for the protection of views. He stated that the intent of the statute cited by the solicitor was for protection of public views, such as from a scenic roadway or park. He stated that he would discuss the matter further with the Town Solicitor. He requested that the Planning Board recommend against the proposed amendment.

Mr. Weber stated that he feels that the Town Council would prefer a compromise solution that would be acceptable to both sides. If there is a single property that is a t issue, the best solution would be an agreement between the Ocean View association and that property owner.

The Planning Board will next consider this issue at it's June 11, 2008 meeting, following the receipt of comments from the Middletown Economic Development Committee.

Motion by Ms. Rearick, seconded by Mr. Forge, to adjourn. Vote: 7-0-0

The meeting adjourned at 7:15pm